



The Constitution of Nepal 2015 and the Capacity of Government to Governance in Local Governments

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Abstract— *This paper explores Nepal's local governance after the endorsement of the Constitution in 2015. The Constitution identifies the local government (LG) as the lowest unit of government with no constitutional provision for the opposition group. The paper analyzes it from the perspective of government to governance using primary and secondary data. LG is the closest form of government envisioned by the Constitution. LGs in Nepal have played a crucial role in institutionalizing local governance, promoting democratic values, and accelerating social and economic development. However, these objectives are partly accomplished, despite constitutional provisions. There is still much work to complete at the local level to develop the necessary capability for promoting and distributing services and infrastructure. Though it concludes with recommendations for improving local governance, citizen dissatisfaction and political and bureaucratic dishonesty pose risks to their capacity development. It aims to address the extent to which local governments can implement constitutional rights to transform communities, revealing that more capacity is needed for restructuring, citizen engagement, partnerships, technical, administrative, and fiscal capacity, and law formulation. Major arguments remain unanswered.*



Keywords— *administration, capacity, democracy, government, governance, participation, people.*

I. INTRODUCTION

Nepal's ancient political system was based on geographic norms, and cultural traditions. Religion was the influencing factor for legitimatizing function of government at that time. Regmi (2020) claims that during the Lichhavi period, the local *Panchayat* had the power of justice. Jayasthiti Malla's Human Jurisprudence of 1380 AD was related to the political system. The first Civil Code of Jang Bahadur Rana implemented in 1854 was the first authentic law of Nepal. Regmi (2002) points out that the prime objective of civil code was to ensure about uniformity in punishment. However, with the change of time, the perception of government, especially local government (LG) is different. It refers to the closest units of government located on the doorstep of people. Pradhan (2019) accepts, "Local governments are the foundations of democratic governance. They are, in real sense, the governments of the citizens" (109). LGs in developing

countries like Nepal deliver services, foster public trust, and involve people in democratic practice, to regulate civic necessities, and uphold responsibility and liability. Shah and Shah (2006) indicate that LGs governments are community-level public entities practiced globally through numerous lawful tools, including national legal documents (Denmark, India, Japan, and Sweden), and statutes state/provincial governments (Australia, Canada, and the United States), and exclusive guidelines as in China.

In Nepal, LG was created under the recently adopted Constitution (2015), which grants them powers with autonomy within their jurisdictions. The preamble of the Constitution incorporates the goal of eradicating discrimination and oppression rooted in feudalistic governance, encouraging societal and cultural cohesion, and building an egalitarian society based on proportional inclusive principles, ensuring economic equality and social justice. Article 51 (b) 4 indicates, "to guarantee good

governance by ensuring the equal and easy access of the people to the services and facilities delivered by the State while making public administration fair, competent, impartial, transparent, free from corruption, accountable and participatory.” It endorses three tiers of government and offers rights to local levels, “The Federation, State and Local levels shall exercise the power of State of Nepal pursuant to this Constitution and law” (Article 56, 2) which is mentioned in Schedule -8. Schedule -8 has a connection with clause (4) of Article 57, clause (2) of Article 214, clause (2) of Article 221 and clause (1) of Article 226).

There are currently 753 local governments, all committed to democratic governance, efficient public service delivery, and promoting communal and economic expansion to raise local existing canons. Democracy and LG are integral concepts. Suhrke (2014) states that some countries adopt a federal form of governance and others implement unitary systems. LG, the bottom level of government within a government, is the administration of a county, with elected representatives. For this, Basu (2019) states that public administration encompasses various decrees and roles performed by municipal administrators and structures in authority. It includes rules, instructions, and managerial performances expressed by governments to offer municipal goods and services. Public bureaucrats at all levels exercise daily work processes, routine behaviors, and discretionary decisions in areas like planning, budgeting, law enforcement, and social services. Both concepts aim to deliver democracy to the doorsteps of communities (UK Government, 2016). LGs in Nepal face challenges such as dishonesty, negligence, maladministration, and absence of civic responsibility.

The government to governance refers to a state's capacity to function effectively and protect citizens' rights. It is for delivering desired social and economic outcomes to address the objectives of the Constitution of Nepal. For this, LGs manage governance processes, focusing on socio-economic development through ownership, provision, regulation, and support. Shah and Shah (2006), Ardanaz, Leiras, and Tommasi (2014), and Pandeya (2015) observe that LGs manage governance processes, focusing on socio-economic development. After 2017, in response to the Local Government Operational Act (2017) the system of government and governance incorporated the policy to strengthen the management LGs. Civil society entities in the case of Nepal, led to debates about their capacity to simplify financial and societal development. Over three decades, it has enforced central governments and global aid agencies to regulate their roles and collaborative approaches in progressing states, presenting new challenges in authority sources, serving purposes, and

constituting government procedures. LGs need to develop substantial sovereign authority to achieve sustainable economic growth and social outcomes. It requires a shift of rule to societies, allowing them to rule government for municipal goals and benefits. The problems faced by LGs in developing countries are mismanagement of municipal resources and decreased service delivery effectiveness, power sharing between central government and local actors for required decision-making. A desirable tactic at the local administration where different actors like representatives of local government, and community groups sit together to reach consensus-based decisions.

The approach to effective local governance relies on the capacity of all involved to inaugurate and perform within the structure for tactical, factual policy outline, measure, and assessment. Capacity-building, retention, and application require multi-dimensional knowledge, abilities, skills, and behavior. Podgórska-Rykała (2024) outlines that the LG offers opportunities for participatory perspectives of people at the local level, and serves as a framework for the development. Factors influencing local governments' capacity incorporate required resources, social system, collaboration, and political legal action. The required cooperative action is crucial to appraise local development with the assumption of higher levels of government. Political legitimacy is crucial for community engagement and responsible service delivery.

This article discusses the challenges faced by local governments and their responses to citizen expectations. It explores the nature of these expectations, their sources, and whether they are based on individual needs or collective interests. The panel also examines the characteristics of the demanding citizen, such as age, gender, education, and political persuasion. It also explores how local authorities are seeking to satisfy these expectations, whether innovative or traditional responses are successful, and whether innovations, such as direct democracy, can help or reinforce an inflation of expectations. Both empirical and theoretical papers are welcome. Political party leaders at local levels have been criticized for their slow work and lack of progress in local units. After assuming office a year ago, elected representatives of Tokha Municipality, Kathmandu have not made significant progress, leading to disappointment among locals. Some believe that the representatives are struggling to understand their roles and responsibilities, and the excitement and hope that the people had a year ago have evaporated. The locals have expressed disappointment that the representatives have not been able to bring change and development to their villages and that they are still in the learning phase. The first time working under a federal setup, representatives are still confused

over rules and policies. Despite this, locals remain hopeful that the situation will change within the next few years. The local elections were held after a long time in 2017. Common people had a huge expectation from the local election of 2022 for transformation and development. The Central Government introduced the Local Government Operation Act (LGOA) 2017 to strengthen its management and operational capacity. However, challenges still exist, including questionable political and administrative commitment. Research conducted in two local governments in seven provinces reveals these challenges. Interviews with mayors, deputy mayors, chief administrative officers, and community members, as well as national officials, highlight the need for a more vibrant form of local governance. The paper reviews the literature on local democracy in federal contexts and presents findings with a case of Nepal's local democracy, development, government, and governance.

II. LITERATURE REVIEW

The Government of Nepal Act was enacted in 1948 to address Nepal's traditional monarchy. Nepal's Shah Dynasty had exercised limited power, and became unsuccessful due to the Rana's control of executive power. The Interim Government of Nepal Act 1951 strengthened the king's authority and introduced reforms like the Supreme Court and fundamental rights. The Constitution of the Kingdom of Nepal 1959 was short-lived and replaced by 1962, a new constitution of the *Panchayat* system, which had eliminated political parties and allowed the king to modify the constitution in case of emergency. The 1991 Constitution established multi-party democracy back to Nepal. However, critics argued that it failed to adequately represent growing desires of Nepali society, despite Nepal's diverse social groups. The 2007 Interim Constitution expanded the democratic characters and included provisions on citizenship, people's basic rights, state's accountability, and the judiciary. Local governance, defined by international scholars and authorities, is self-governing administration of public affairs by local community representatives, subject to central government. Podgórska-Rykała (2024) observes that traditional government violate local self-government principles and specific rules. It becomes difficult to resolve issues in a daily manner. Byrne (1981) views LGs possesses significant responsibility and discretionary power, despite being subject to various practices. Thapa (1998, p. 2) opines, "Broadly speaking, the term local self-government is connected with mainly two aspects – governance and development." The concept of LG is closely linked to governance and focuses on power and authority within local institutions to protect and promote the interests of

local community.

The history of Nepal's government system was traditionally centralized. Since long the King in Nepal was the head of state and government head. A council facilitated local governance, giving some autonomy for development. However, some areas were ignored, leading to reliance on neighboring India for basic services. This structure consists of three tiers of Government: zonal, district, and lower units of Government (Village *Panchyat* and Municipal *Panchyat*). National Legislation was introduced to define roles, powers, and organizational structures, aiming to strengthen the *Panchyat* system which could not develop local leadership, and involve local people in decision-making. Acharya (2018) views that Nepal's past centralized local governance was hindered by weak institutional structures and decision-making processes which led to ineffective implementation of decentralization policies and programs. The goal was to strengthen the political system and involve local people in decision-making.

The Constitution of 1991 introduced legislation and expanded local governments' powers and responsibilities. The Village *Panchyat* and Municipal *Panchyat* were converted to Village Development Committees and Municipalities. The Local Self-Governance Act (1999) was enacted to improve local planning and development, promoting accountability, transparency, and citizen participation in decision-making. Rijal (2013) writes that the LG is a sub-national level of government with jurisdiction over limited state functions within a geographical area. It is often portrayed as the maximum form of decentralization and delegates the power. It involves collective action at the local level, and involves citizens in decision-making and development of local levels. It values inclusion, tolerance, and openness. It accepts different ideas and interests, and promotes peaceful conflict resolution. LGs are responsive to their electorate and negotiate with competing choices to seek compromise. They also mediate disputes and offer processes to resolve interpersonal differences.

In 2002, the Communist Party of Nepal (Maoist) prevented local government elections, resulting in central government employees taking over. In 2006, a peace accord was signed between the government and the rebel force, laying the groundwork for extensive state transformation and subsequent constitution. The new Constitution (2015) established 753 new local governments, with each LG having elected ward committees based on population size. These ward committees are also known as sub-municipal entities. Local governments are divided into Rural Municipalities (460) and Municipalities (293), with 77 district

coordination committees. They have exclusive and shared powers in the planning and implementation of economic, social, environmental, and community infrastructure. Wards in local governments ensure citizens have easy access to basic services and can participate in service design. Nepal's local governments are divided into urban and rural municipalities following the 2015 federal Constitution. Dahal (2024) opines that LGs, at the lowest level of a country's government, address issues directly affecting local people. They are increasingly taking on more responsibilities, improving local quality of life. Central government representatives cannot reach all outlying areas, necessitating local leaders. Decentralization/devolution improves access to services by LGs that understand their needs and utilize local knowledge and resources. Matsui (2005) and Hope (2014) state that LGs are crucial in transitioning to renewable energy systems and leading decentralization for regional economic development.

The LGOA (2017) empowers municipalities to establish political and administrative structures, procedures, performance standards, and community interaction methods, with mayors and chairpersons serving as leaders. Bhusal and Acharya (2024) state that Nepal's Constitution establishes local councils to frame local legislation. These councils, led by the Mayor, and Rural President have five years of tenure, and it has increased the representation of women, Dalit, indigenous group, and Madhesi. However, there are concerns about the impact of elected politicians on local councils. Reforms in local levels in planning, budgetary process and administration for inclusive strong local democracy in Nepal after the implementation of the new Constitution is necessary. Ordinary citizens were need to be given adequate opportunities to participate in policymaking and budget allocations system.

III. RESEARCH METHODOLOGY

This part explains the research design, study population, sample size, data sources, reliability, validity, and data processing, and cleaning. LG refers to the management of local affairs by locally elected representatives, addressing local problems and needs better than central or state governments. LGs provide political and administrative control over services.

This study uses mixed methods and descriptive logic. Collecting data at local levels, face-to-face interviews, and telephonic conversations has enriched the research paper. 15 respondents including Mayor and Deputy Mayor, elected representatives from Tokha Municipality, Kathmandu were chosen for authenticity and validity. 55

common people from different Ward Numbers e.g. 3, 5, 6, 7, 9, and 10 were selected to get responses from local people. Similarly, 7 bureaucratic staff from the Municipal Office, and Wards Offices including 3, 6, and 9 were collected to understand the policies ratified by the LG. Primary data were collected in 2022 AD and compared with some secondary sources published in different journals. The study covers the elected local government's tenure from 2017 to 2022. The research collected secondary data from different papers published in journals, books, and Municipal rules.

IV. DISCUSSION AND FINDINGS

The twelve-point agreement (Sharma 2006) opened the door to launch a peaceful people's movement for the seven-political-party and rebel force (Maoist) which opened the way for signing the Comprehensive Peace Agreement in 2006. The Constitution (2015) grants local governments autonomy, but institutional arrangements for service delivery at local levels. 2017 local governments held elections, allowing public questioning and control. With 14,054,482 votes, 36,639 representatives were elected, ending a two-decade political vacuum led by the federal government in LGs. There are gaps in power structures and delivery performances between the federal and staff of LGs. Local staff view themselves as they are supporters of federal officials and are inclined to nepotism and favoritism. To strengthen LGs' technical and administrative capacity and skills, the federal government instituted the Employees Adjustment Act (2017) and reorganized the civil service structure. With 37,257 positions approved, local entities still have over 15,000 staff. The central government had formed a study committee to scrutinize and recommend organizational structures and employee numbers at the local level. Around 75 percent of the 86,529 civil servants are anticipated to be employed to provincial and local levels. Temporary arrangements have increased local administration capacity, but long-term initiatives are needed to sustain capacity. Staff numbers, employment terms, recruitment, retention, and training will be adjusted to improve local services and infrastructure.

The Constitution establishes fiscal federalism, focusing on economic development, income distribution, and fiscal transfers. The government is committed to addressing these issues through the Inter-Governmental Fiscal Transfer Act (2017). It outlines power sharing and revenue generation through self-financing, co-financing, property and sales taxes, inter-governmental transfers, and local borrowing. LGs collect only one-third of their financial resources through taxation and fees, with fiscal

transfers accounting for almost two-thirds of their total income. Article 56 (4) of the Constitution of Nepal incorporates, "There shall be Village Institutions, Municipalities and District Assemblies under the Local level. The number of Wards in a Village Institution and Municipality shall be as provided for in the Federal law". The Constitution and LGOA (2017) allow local governments to create regulations and guidelines for local affairs like tax collection, social security distribution, development planning, and council administration. These laws must be passed within 15 days and produced in the government gazette. However, local governments often lack the necessary knowledge and capacity to effectively make laws, requiring central government involvement. Article 59 (1) includes, "The Federation, State and Local level shall make laws, make annual budget, decisions, formulate and implement policies and plans on any matters related to financial powers within their respective jurisdictions".

V. PEOPLE'S CONCERNS TOWARDS GOVERNMENT TO GOVERNANCE

Local autonomy allows LGs to extend their full perspective as approachable and accountable public structures. The Constitution of 2015 establishes a semi-autonomous system with significant powers for service delivery and community infrastructure provision. Local governments' closeness to communities authorizes them to be acquainted with community requirements and fosters active people's participation in decision-making. The electoral arrangements are presidential, with council mayors and chairs elected by the people for five-year terms. This stability helps local councils develop strong relationships with their communities. The inclusive policy at the local level and self-governing pluralism, including quotas for women and marginalized groups, can increase local decision-making and action. However, challenges remain, such as inadequate capacity of political representatives and council staff, lack of technical and administrative knowledge, poor staff compliance, inadequate attention to budgetary demands, and slow implementation of programs. Additionally, alterations in understanding between elected representatives and central and LGs' responsibilities limit the inherent power for local governments to become legitimate centers of governance.

One of the respondents from Ward No. 9 of Tokha Municipality expressed:

Public administration at the local level evolves due to factors like information and communication. Here is less influence of globalization, democratization, and knowledge

for driving the local units. The New Public Management, the integration of the private sector and civil society in policy-making, and increased ethical and accountability concerns are ignored.

The respondent asserted that the LG is not sincere about public concern. For this accountable public administration is the key factor for government to governance. The prime factor of the Constitution (2015) is to implement constitutional provisions to ensure the rights of people and deliver services to the people. It is a main challenge at the local level to increase the capacity of the LG to strengthen the local institutions. About 71 percent of common people responded that the LG is only committed to addressing the issues of political parties, but not addressing the common concerns of common people.

VI. LOCAL ADMINISTRATION FOR GOVERNANCE

The federal government has partnered with development partners to establish local governance and cooperative federalism. These partners provide an economic foundation for service and infrastructure projects to support projects to increase technical capacity training, income generation, infrastructure development, and accountability. This funding demonstrates the government's dependency on external support and commitment to reducing corruption and instability. The country's local administration apparatus is modernizing to boost socio-economic development. The central bureaucracy system is increasing power and control over resources impacts socio-economic progress and local governance. Staff in the central bureaucracy play a major role in policy-making, and the provincial and local governments focus on implementation. However, remoteness, career opportunities, administrative structures, and lack of office space hinder staff's transition to local governments. Addressing this reluctance could limit the potential for progressive staff contributions and dynamic local governance.

One staff from Tokha Municipality expressed the ideas as:

The sharing of power and authority among elected representatives and agencies is complex. The authority divided between higher and lower ranks has some ego problems at the local level. In the past, the centralized system had different practices. With the endorsement of the new Constitution, delegates function to sub-national units, covering education, transport, housing, health, etc. It has been a problem to track the representatives to follow the guidelines of LGOA

(2017). There are some policy gaps between federal and local policy for governance system.

The practice of LG is for local development which is interconnected with public policy and administration to enhance economic, social, and environmental conditions in local areas. Public policy at the local level provides a framework for administration and local development. They are the parts of government and governance at local units of Nepal. It fosters economic growth and improves the quality of life. However, in Nepal, LGs struggle to define priorities that hinder sustainable development. Nepal should focus on sustainable development for a self-reliant economy only. Article 229 (2) of the Constitution (2015) accepts, "Matters relating to expenditures from the Local Consolidated Fund under clause (1) shall be as provided for in the Local law."

VII. PEOPLE'S PARTICIPATION

Participation strategies focus on community or social aspects, often in civil society or government initiatives. Political participation involves the activities of LG for voting and lobbying the local policies. It has been more associated with democratic decentralization. People are happy with their active participation in LG. The governance networks poses a significant challenge for academics and practitioners in network governance and public administration for performance and effectiveness. Public participation is a set of principles and actions to address societal issues, promote welfare, and achieve specific objectives. It encompasses decisions in various sectors like economics, social services, education, healthcare, infrastructure, and environment.

The goal is to enhance safety, reduce poverty, improve health, foster economic growth, and safeguard individual rights. Bongiwe, (2022) claims that local people's knowledge, ideas, and experiences are crucial for development practice, particularly in identifying and prioritizing needy programs, enabling beneficiaries to effectively assess requirements and formulate annual plans and policy instruments. Hogstrom, Brokking, Balfors, and Hammer (2021) state that the development and planning sector faces ongoing debates about implementing participatory approaches. To effectively address development challenges, local actors must define their needs and establish conditions for effective planning. Wangchuk and Turner (2019) ensure about the bottom-up development efforts, where local people actively engage in planning, are an alternative approach to address these issues. One young respondent from Ward No. 9 asserted as:

Elected representatives at the local level did not

try to understand the norms of the Constitution. The only main concern was earning money, renting out government property, or making money under any pretext. At the local level, the local government is seen to be weak for governance as it does not seem to pay much attention to increase the income of the municipality. The priority is not given for improving quality education, health, employment, and increase production at local level. They are the backbone of the LG. Common people become happy if they feel good governance, responsive administration, and social security. The educated young people and taxpayers at local levels are demanding rights, entitlements, and services from the local government. They demand accountability for products and services. Nepal, with the 25-45 age group, has an informed citizenry with skill sets ready for jobs in both the private and public sectors.

Local governance is a crucial system where citizens come together to discuss issues, elect representatives, and make decisions. Vibrant local governments ensure access to services and create a conducive environment for conflict resolution. Despite opposition from some political parties, the government completed the phase-wise local election. The government has enriched local government units with legal instruments, improving capacity, teamwork, job satisfaction, and decision-making. They have also focused on capacity development, employee adjustment, and infrastructure development. Erdoğan and Paabort (2024) mention that the policy should not neglect the multidimensional social problems faced by vulnerable young people. To improve policy-making, reinforced governance should address the multidimensionality of social problems and promote a design-based policy development mindset, creating new avenues for support and services.

The LG policy and administration should explore community-based projects to address challenges faced by young people to promote their quality of life and social inclusion. The municipal representatives express that they have increased the capacity of local government in the case of governance which has strengthened its management and operational capacity to carry out the developmental works at the local level.

VIII. CONCLUSIONS, IMPLICATIONS AND LIMITATIONS

This paper aimed to explore and analyzed government to governance in Tokha Municipality,

Kathmandu to identify the achievements of LG and people's views towards the LG. Though, the municipal government and administration has taken several initiatives, the capacity of government is not increased to strengthen the governance at the local level. The lack of policy, and management of local resources to address the problems of local people needs to be reviewed soon. However, there are some policy gaps analysis between the federal and local policy for development of local levels. Nepal, a federal republic with the practice of new Constitution in 2015 which acknowledges three tiers of governments to settle the political conflict, faces challenges in empowering local levels due to resource scarcity. The resource distribution, and reluctance to decentralize power are some invisible challenges. Despite elections of LGs and LGOA (2017), these barriers persist in local levels. Democracy must empower local bodies to achieve Constitutional goals. Although local governments have been elected and started working on law making, service delivery, and development, they face challenges in capacity, knowledge, and resource planning. Local governments are crucial for a well-governed public sector and society. They involve electing representatives, and people's participation in different ways for making decisions. They facilitate citizens' access to services and encourage citizens' involvement in public affairs. Effective local governance requires commitment and action at all levels, and the experience of Nepal demonstrates the importance of establishing appropriate structures and processes to meet community needs.

In the local election of 2017, women, backward group, Madhesi, indigenous community, Dalit occupied most positions in LGs. The LGOA assigns significant responsibilities to elected institutions to coordinate the judicial committee, monitor planning and implementation of public policy for the development of local levels. Even with the promulgation of new Constitutions local units face challenges in asserting their rights due to cultural dominance. LGs in Nepal should be responsible for institutionalizing local governance, promoting democratic values, and accelerating social and economic development. However, these goals are only partially achieved, despite institutional arrangements. Now, it is a time to ensure local governments have the necessary capacity to design and deliver services and infrastructure.

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